

REMARKS

The Office Action dated January 28, 2005 has been read and carefully considered and the present amendment submitted in order to better define the invention as set forth in the newly amended claims.

Initially, the Examiner has noted that the patents cited in the specification were not submitted in the proper form for an Information Disclosure Statement. It should be noted, however, that all of the references mentioned in the specification were presented to the U.S. Patent Office in an Information Disclosure Statement entered in the parent application of the present continuation-in-part application and it is therefore submitted that the references were therefore properly brought to the attention of the Examiner.

A correction was suggested by the Examiner to the section "Reference to Related Patent Applications" and that correction has been made herein by a rewritten section.

As to the claim rejections, claims 1-19 were rejected under 35 U.S.C. 102(b) as being anticipated by Kronenberger, U.S. Patent 5,321,854. Claims 1, 3, 6, 7, 10, 12, 13 and 15 were also rejected under 35 U.S.C. 102(b) as being anticipated by Kang, U.S. Patent Des. 96,496.

As such, all of the independent claims have been amended to better define the present invention over the cited references. As now claimed, the language recites that the cap is basically formed by the overlapping of the pair of flaps when they are affixed together along the lower edge of those flaps and that affixation of the lower edges of the flaps also serves to form the opening through which the person's hair passes.

The new language more clearly points out a fundamental difference between the present cap and the way it is formed about the head of the wearer and the cap and sunhat, respectively, of Kronenberger and Kang.

As can be seen, the present cap has the securing means located along the lower edge of the flaps and not along the inner edges of the flaps that face each other in contradistinction to the Kronenberger cap that has no such elongated securing means located along its lower edge. Kronenberger has its securing means along the inner edge and not the lower edge and it would seem to be inconsistent in the structure of a cap between the two different locations.

With the securing means being elongated and located at the lower edge of the flaps, the cap of the present invention is allowed to wrap around the head of the user and the cap itself is formed by securing those lower edges together. Thus, the inner edges of Applicant's cap do not become affixed together by a securing means, as is done in Kronenberger, but are held securely by the elongated securing means located along the lower edge such that the present cap wraps around the head of the user and the opening itself, as well as the very cap, is formed by that securing of the lower edge of the flaps.

The inner edges of the flaps overlap substantially and there is no such securing means since, as stated, it would appear to be very difficult to secure the cap together and adjust the opening where there is a securing means along both the inner edges as well as the lower edges. Applicant simply uses the lower edge to locate the elongated securing means and cause the flaps to substantially overlap to form the cap as well as form and establish the size of the opening. As an example of the substantial overlapping, typical triangles of the present cap are 8 x 8 x 5 ½ inches and such dimensions assure that the total back of the cap is not formed until the flaps are overlapped to form the cap. Due to the large panels, unlike Kronenberger, the overlapping panels provide enough support that accessories are not needed and the overlapping panels can hold the hair up.

As such, the unique means of securing the laps together enables the present cap to be donned by the wearer in a different yet convenient manner, that is, the user can position the cap at the front of the head, simply lean forward to cause the hair to fall forwardly and then secure the lower edge of the flaps together about the hair. Upon straightening up, the hair is automatically caused to pass through the opening created by the securing of the lower edges of the flaps together and that opening is created in the size needed for the amount of hair

creating the ponytail. The user thus does not have to pull the hair through an existing opening in the cap and the method of creating the cap and the opening is easy for the wearer to carry out.

The Kang reference is also not pertinent for the same reasons as it has no elongated securing means located along the lower edge of any flaps that secure the flaps together in forming a cap and also in forming an opening therein. As now claimed, therefore, it is believed that the Kang reference discloses a totally different type of sun hat and it is noted that there is no mention or suggestion in Kang that the opening that is provided in the Kang sunhat is intended to have the hair of the user pass therethrough such as is set forth in method claim 7 to encircle the wearer's hair.

Accordingly, it is submitted that with the presently amended claim language, the claims of the present application are now in condition for allowance and an allowance of the application is respectfully solicited.

Respectfully submitted,
Roger M. Rathbun
Regn. 24,964